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TRANSCRIPT OF PROCEEDINGS

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

MAY 21 1993

IN THE MATTER OF:

DOCKET NO. 93-42

MOONBEAM, INC.

and

GARY E. WILLSON

Calistoga, California

DATE OF CONFERENCE: May 6, 1993

VOLUME: I

PLACE OF CONFERENCE: Washington, D.C.

PAGES: 1 - 6

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FEDERAL COMMUNICATIONS COMMISSION
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In the matter of:)
MOONBEAM, INC.) Docket No. 93-42
and)
GARY E. WILLSON)
Calistoga, California)
-----)

The above-entitled matter came on for pre-hearing conference pursuant to notice before Judge Edward Luton, Administrative Law Judge, at 2000 L Street, N.W., Washington, D.C., in Courtroom No. 4, on Thursday, May 6, 1993 at 9:00 a.m.

APPEARANCES:

On behalf of Gary Willson:

A. WRAY FITCH, III, Esquire
Gammon and Grange, P.C.
8280 Greensboro Drive
Seventh Floor
McLean, Virginia 22102-3807

On behalf of Moonbeam, Incorporated:

LEE W. SHUBERT, Esquire
SUSAN ROSENAU, Esquire
Law Offices Haley, Bader and Potts
4350 North Fairfax Drive
Suite 900
Arlington, Virginia 22203-1633

On behalf of the Mass Media Bureau:

LARRY A. MILLER, Esquire
Hearing Branch
2025 M Street, N.W.
Room 7212
Washington, D.C. 20554

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Opening Statment by Judge Luton

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25 Conference Began: 9:00 a.m. Conference Ended: 9:05 a.m.

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P R O C E E D I N G S

MR. MILLER: On behalf of the Mass Media Bureau, Larry A. Miller.

MR. SHUBERT: On behalf of Moonbeam, Inc., Your Honor, Susan Rosenau and myself, Lee Shubert, of the firm of Haley, Bader and Potts.

MR. FITCH: Your Honor, on behalf of Gary Willson, Wray Fitch with the firm Gammon and Grange.

JUDGE LUTON: Thank you. It's nice to have the Bureau with us this morning.

MR. MILLER: Thank you, Your Honor.

JUDGE LUTON: I take it that there is no issue, at this point at any rate, in which the Bureau takes particular interest. Is that right?

MR. MILLER: That's correct, Your Honor. There's no areas and pops issue and we're just here to monitor the case.

JUDGE LUTON: Good. Keep an eye on us.

MR. MILLER: Make sure you're --

JUDGE LUTON: Check our pulse.

MR. MILLER: Make sure you're doing your job.

JUDGE LUTON: I understand. All right. The hearing in this case has already been established -- the date has been established for July 21 and we're going to adhere to that date. Have the parties discussed the possibility of settlement?

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1 MR. SHUBERT: Yes.

2 MR. FITCH: Yes, Your Honor, we have, quite extensively
3 in the past.

4 JUDGE LUTON: All right. That's good enough. You
5 don't have to tell me anymore unless you want to. I just want
6 to know that it's considered anyway before we move too far
7 along. All right. The only thing that I wanted to do this
8 morning was to set some procedural dates. I'm aware of some
9 pending pleadings. I guess the most pressing of those is a
10 motion to compel filed by one of the parties, oppositions, and
11 that matter is ripe for decision and I'll decide it soon.

12 A couple of petitions to enlarge issues, I think one
13 going each way, still in the process of being pleaded, I
14 believe. Other than that, we're okay. So the dates that I
15 would propose -- and the parties ought to feel free to suggest
16 different dates here, except for the hearing date, if they
17 feel the need to. I would ask that exhibits be submitted,
18 written exhibits be exchanged June 25th, and that way the
19 parties will have two full weeks to look at the exhibits
20 before naming their witnesses.

21 The witnesses that they want to cross examine, I'd ask
22 that that be done July the 9th, and within a week after that,
23 by July 14th, parties can object to witnesses that are called,
24 and that will give us a week before the hearing, July 21, to
25 take care of the objections to the witnesses and proceed to

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1 hearing on July 21.

2 So the way that I have it and the way that I would
3 propose it would be for exhibits to be exchanged June 25th,
4 witnesses who are desired to be cross examined be named July
5 the 9th, objections to witnesses who are called be made by
6 July the 14th, and the hearing on July 21. How are those
7 dates with the parties? Fair enough? Not quite?

8 MR. FITCH: With some hesitancy, I'm wondering whether
9 -- what Lee and Your Honor would think about moving the June
10 25 date back one week, so instead of two weeks between witness
11 notification and the exchange of direct cases, there would be
12 a one-week time period. It would just give us a little more
13 time to do the -- to do our exhibits.

14 JUDGE LUTON: June 25, move it up until July 1 or
15 something like that?

16 MR. FITCH: Yeah.

17 JUDGE LUTON: Is that what you're saying? Okay.

18 MR. SHUBERT: When is the Federal Government going to
19 celebrate the fourth of July this year?

20 MR. MILLER: The fifth, I believe.

21 MR. SHUBERT: It's the Monday after?

22 MR. MILLER: It's the Monday after.

23 MR. FITCH: I personally don't think I'm going to need
24 much time to decide on witnesses.

25 JUDGE LUTON: I really don't think anyone will. Two

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1 weeks is really quite a lot of time there. It's really too
2 much time. Moving to the next Friday would be -- I'm sorry,
3 would be July the 2nd. Would that be all right?

4 MR. FITCH: Yes. That would be much better. Thank
5 you.

6 JUDGE LUTON: That's a good suggestion, Mr. Fitch, I
7 think. So July 2 for the exhibit exchange and then July 9,
8 witnesses, July 14, objections, and hearing, July 21. That's
9 all that I had. Does anyone have anything else he wishes to
10 raise?

11 MR. SHUBERT: One question I have, Your Honor, are you
12 going to set any date for initiation of depositions or should
13 you -- are we going to leave it up to ourselves?

14 JUDGE LUTON: I'm just going to leave it up to the
15 parties. I realize that you can't really get going on that
16 until I've taken care of the discovery motion to the motion of
17 production of documents or motion to compel whatever it is.
18 But I'm not going to set dates. But you should be proceeding
19 with discovery now, to the extent that you can. All right?
20 Thank you very much.

21 (Whereupon, at 9:05 a.m. on Thursday, May 6, 1993, the
22 conference adjourned.)
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CERTIFICATE OF REPORTER, TRANSCRIBER, AND PROOFREADER

APPLICATION OF MOONBEAM, INC. & GARY E. WILLSON

Name

MM DOCKET NO. 93-42

Docket No.

WASHINGTON, D.C.

Place

MAY 6, 1993

Date

We, the undersigned, do hereby certify that the foregoing pages, numbers 1 through 6, inclusive, are the true, accurate and complete transcript prepared from the reporting by MARYKAE FLEISHMAN in attendance at the above identified proceeding, in accordance with applicable provisions of the current Federal Communications Commission's professional verbatim reporting and transcription Statement of Work and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the proceeding and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the proceeding.

May 11, 1993

Date

Marykae Fleishman
Marykae Fleishman, Transcriber
Free State Reporting, Inc.

May 11, 1993

Date

Diane S. Windell
Diane S. Windell, Proofreader
Free State Reporting, Inc.

May 11, 1993

Date

Marykae Fleishman
Marykae Fleishman, Reporter
Free State Reporting, Inc.

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